IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 414 OF 2004

IN

WRIT PETITION NO. 329 OF 2004

National Defence Civilian Employees Union .. Petitioner

V/s

The Director of Industrial Safety and Health & Ors. .. Respondents

Mr.Y.S. Bhate for the Petitioner in support of the notice of motion.

Mr.Lencelot Lewis for the Respondents.

CORAM : H.L. GOKHALE & ABHAY S. OKA, JJ.

DATE : 27TH JANUARY 2006

P.C. :

1. Heard Mr.Bhate in support of this motion. Mr.Lewis appears for the original Petitioners.

2. The motion seeks an extension of time to provide the required facility within 3 years from the date of

the motion, i.e. from 13th August 2004. The motion has reached today for consideration. We are not aware as to whether any steps are taken in the meanwhile.

3. The motion comes on the background of two orders passed by the Division Bench on 27th February 2004 and 15th April 2004. The grievance was with respect to not providing proper height to the lunch room and the changing room of the concerned employees as required under the Factories Act. Certain time was granted under these two orders to provide the facility. Now this motion is taken out which prays that time be extended for that purpose. However, it is submitted that the facility is being shifted from the place where it was originally existing to the terrace of the building. Mr.Lewis for the original Petitioners points out that the building is not so strong to have such an additional structure on the terrace.

4. In any case, what we find is that under the garb of the present motion the facility is to be shifted to another place. If that is so, the Respondents ought to take out appropriate motion for modification of the orders which were passed on 27th February 2004 and 15th April 2004. The present motion is not the proper

remedy. Mr.Bhate therefore seeks leave to withdraw this motion with liberty to take out appropriate motion for modification of the orders.

5. Motion allowed to be withdrawn with liberty.

(H.L. GOKHALE, J.)

(ABHAY S. OKA, J.)